IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9307 of 2001

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GURJAR GRAVURES PVT. LTD. - Petitioner(s)

Versus

DASHRATHBHAI REVABHAI PARMAR - Respondent(s)

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Appearance :
MR DIPAK R DAVE for Petitioner(s) : 1,
MR TR MISHRA for Respondent(s) : 1,
MR UT MISHRA for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 12/01/2006

ORAL JUDGMENT

1. This petition is directed against the award dated 18.4.2001 passed by the Labour Court, Ahmedabad, in Reference (LCA) No.2403/92 whereby the Labour Court directed the petitioner to reinstate the respondent with full back

wages.

2. The short facts of the case are that the respondent was serving as a Copper Designer in the Copper Plating Department of the petitioner company. The respondent committed a theft in pursuance of which the respondent requested the petitioner not to initiate any criminal action or departmental inquiry against him, conceded his guilt and requested the management to accept his resignation. Accordingly his resignation was accepted. The respondent thereafter withdrew his resignation and filed a complaint before Metropolitan Magistrate, Ahmedabad, alleging that his resignation was obtained by force. The respondent also raised an industrial dispute which was referred to the Labour Court, Ahmedabad being Reference (LCA) No.2403 of 1992. The Labour Court after hearing the parties passed the aforesaid award.

3. It is reported that the respondent workman has already been reinstated in service.

4. As a result of hearing and perusal of the record, I am of the view that the Labour Court has given cogent and convincing reasons for granting reinstatement. I am in complete agreement with the reasonings recorded and findings arrived at by the Labour Court qua reinstatement. Therefore, the respondent is entitled to reinstatement with continuity of service.

5. As regards the back wages is concerned, I am of the view that the Labour Court has granted the back wages as a matter of course without giving any cogent reasons. The law on the subject is well settled. In the case of Ram Ashrey Singh Vs. Ram Bux Singh, reported in (2003) II LLJ 176, it is held that the workman had no automatic entitlement to back wages since it is discretionary and has to be dealt with in accordance with facts and circumstances of each case. In the case of General Manager, Haryana Roadways Vs. Rudhan Singh, reported in JT 2005(6) SC 137 (=2005 (5) SCC 591), after referring to various decisions on the said subject, the Apex Court held that order for payment of back wages should not be passed in mechanical manner, but a host of factors are to be taken into consideration before passing any such order.

6. In the premises aforesaid, the award qua back wages is quashed and set aside. The rest of the award is confirmed. The respondent workman will be entitled to reinstatement with continuity of service. Award of the Labour Court is modified accordingly. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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